

PART III Principles of Service and Compensation

CHAPTER 1: Service Months

Service Month Defined	A service month is any calendar month, or any part of a calendar month that an employee receives compensation for services performed for a railroad employer; or a period of time for which an employee receives compensation which is paid for time lost as an employee. A service month is a unit of credit used to determine eligibility for railroad retirement, unemployment and sickness benefits, as well as the amount of such benefits.
Service Months Reported by Labor Employers	A service month is reported for a calendar month in which an employee either actively or constructively rendered compensated service or received pay for time lost for an identifiable period of absence from active service. A service month should be reported even if the payment of compensation for the service is not made until a later month. Constructively performing service means that the employee is not actively working, but is being paid under a plan whose construction or legal interpretation yields the same result as actively performing work. A paid vacation period is the primary example of constructive service. There is no minimum time worked or compensation amount required, for a month of service.
Creditable Service to a Local Lodge	In order for service to <i>local lodges</i> to be considered creditable, there are two other requirements that must be met. First, the compensation for the service must be at least \$25 a month. Second, the employee must have, at some previous time, rendered creditable railroad service to a carrier employer.
Example of a Creditable Service Month	Example. An employee begins employment on February 27 but is not paid until March. The employee works until November 27 and resigns. The last pay is received in December. The employee is entitled to service month credit for February through November

Continued on next page

Part III, Chapter 1

CHAPTER 1: Service Months, Continued

**Service Month
and Earnings
Maximum**

A service month should be reported for every month in which service was performed regardless of when the maximum creditable compensation bases are attained. If an employee works in all twelve months of the year but reaches the Tier I creditable earnings base in October, the employer should credit the employee with twelve months of service, not ten.

**Deemed Service
Months**

The RRB will credit deemed service months directly to an employee's record. Service months are deemed when an employee does not have all twelve months reported in the year, but has sufficient Tier II compensation and has an employment relationship in months not reported. (See Employment Relation in Chapter 2 of this Part.)

**Determining
the Number of
Deemed Service
Months**

To determine the maximum number of deemed months for an employee for a year,

- 1) Multiply the number of reported service months by 1/12 the annual Tier II maximum compensation for the year; and
- 2) Subtract this product from the reported Tier II compensation.

If the result is zero or negative, no deemed months are possible. If the result is a positive amount,

- 3) Divide by 1/12 the Tier II maximum compensation; and
- 4) Round up to a whole number.

This is the maximum or potential number of deemed service months. The actual number of deemed months depend on whether the employee has an employment relation in the months not worked. (Refer to Part VII, Chapter 3 for additional information on deeming service months.)

**Military
Service**

A period of military service which meets specific conditions may also be credited as service months for railroad retirement and unemployment and sickness benefits. Creditable military service, however, is outside the scope of labor employer reporting responsibilities because it is the responsibility of the employee to submit their military service to the RRB.

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CHAPTER 1: Service Months, Continued

**Adverse Effect
of Erroneous
Service Months**

Reporting a service month when no service month is creditable can adversely affect both the employee and the employer. The employee may be denied benefits for the month of reported service or may have received benefits in excess of the correct amount based on the erroneous service month.

**Employment
Relation and
Service Months**

Both reported and deemed service may only be credited for a month in which an employment relation exists with a railroad employer. In other words, service can only be reported for a month in which an individual was an employee. When a person becomes a former employee, for whatever reason, the employment relation ends and service cannot be credited after that month.

**Additional
Information**

See Chapter 2 of this Part for information about how an employee's employment relationship effects the crediting of service months.

See Chapter 4 of this Part for information on the options for reporting creditable compensation, whether on an earned or paid basis, and how this relates to reporting service months.

See Part IV, Chapter 5 for a discussion of service months and vacation payments in lieu of vacation taken.

See Part IV, Chapter 7 for an explanation of why deemed months should not be considered in awarding pay-for-time-lost.

See Part VII, Chapter 3 for information about the procedure the RRB uses to obtain information about an employee's employment relation for purposes of deeming service.

Part III, Chapter 2

CHAPTER 2: Employment Relation**Employment
Relation
Defined**

An employee generally has an employment relation beginning with the effective hire date and ending with the effective termination date. Service months may be credited only for months in which an employment relation is maintained. An employment relation is maintained during periods in which active service is not performed because of:

- furlough;
- authorized leave of absence; or
- continuous disability.

**Employment
Relation Ends**

An employment relation ends when an employee:

- dies;
- retires or receives a company pension;
- is discharged;
- resigns; or
- relinquishes employment rights.

**Common Error
In Reporting
Service Months**

It is a common employer error to report service months after the employment relation has ended when a payment is made in a later month for earnings due. Payments earned in a prior period may be credited when paid, but service months are always credited when the service was performed. Service months can only be credited for months in which an employment relationship exists. An employment relation is an essential factor in crediting service months but is not a requirement in crediting compensation.

**Example of
Correctly
Reporting
Service Months**

An employee retires in November. Earnings payments due are made in December and again in the following February. The payments made after November may be credited as compensation to November (or earlier months, if earned in earlier months) or to the months payments were actually made, but no service months are creditable after November. The employee is not entitled to service credit for December or February because the employment relation ended in November.

CHAPTER 3: Creditable Maximum Compensation Amounts

Maximums and Types of Compensation	The three types of creditable compensation which must be reported are known as Tier I, Tier II, and Railroad Unemployment Insurance Act (RUIA) compensation. The terms refer to three differing compensation maximums.
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Employer Notification of Compensation Maximums	The compensation maximums, also known as the earnings bases, for Tier I and Tier II are established by the Social Security Administration and published in the Federal Register. The RRB determines the RUIA compensation maximum. Each October, the RRB notifies all employers of the earnings maximums for the following year, via a circular letter to the NRO. This information can also be accessed through the RRB Web site at www.rrb.gov .
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Tier Maximums	Tier I and Tier II compensation is subject to annual maximums. Both Tier I and Tier II compensation are creditable until the Tier II maximum is reached. Amounts earned over and above the Tier II maximum are creditable as Tier I compensation, until the Tier I maximum is reached.
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Examples of Reporting up to the Annual Tier Maximums	<p>The 2004 Tier I and Tier II earnings maximums were \$87,900.00 and \$65,100.00, respectively. If an employee earned \$80,000.00 in 2004, the employer should report \$80,000.00 as creditable Tier I compensation and \$65,100.00 as creditable Tier II compensation.</p> <p>A second employee earned \$90,500.00 in 2004. The employer should report \$87,900.00 as creditable Tier I compensation and \$65,100.00 as creditable Tier II compensation.</p> <p>The reported Tier I and Tier II compensation, by a single employer, should never exceed the applicable annual maximums.</p>
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RUIA Maximum	RUIA compensation is subject to monthly maximums. Amounts earned over and above the monthly maximum are not creditable or taxable.
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Part III, Chapter 3

CHAPTER 3: Creditable Maximum Compensation Amounts

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**Examples of
Applying RUIA
Maximum**

The RUIA monthly maximum for 2004 is \$1130. If an employee earned \$6000 each month in 2004, the employee would be credited with RUIA compensation of \$1130 each month for a yearly total of \$13,560.00.

A second employee is a seasonal worker who had no earnings in January, February, or December 2004. The employee earned \$800 in March and November and \$5000 in the remaining seven months for a yearly total of \$9510. RUIA compensation is creditable as follows:

Jan. \$ 0.00	May \$ 1130.00	Sep. \$ 1130.00
Feb. \$ 0.00	Jun. \$ 1130.00	Oct. \$ 1130.00
Mar. \$ 800.00	Jul. \$ 1130.00	Nov. \$ 800.00
Apr. \$ 1130.00	Aug. \$ 1130.00	Dec. \$ 0.00

**Applying
Maximums
when Employee
Worked for
More than One
Employer**

Labor employers must tax and report Tier I and Tier II compensation amounts up to the applicable annual maximums regardless of whether the employee worked for another covered employer either concurrently or in a different period in that calendar year. Tier maximums are applied to earnings from each employer as though that employer was the sole employer whether or not the employee had other employment in the year.

**Reported RUIA
Compensation
Exceeds
Maximum**

RUIA maximums are applied to each employee. If there are multiple employers, each employer may prorate their share of RUIA compensation based on the combined compensation paid in the month. See Chapter 5 for information on RUIA compensation from multiple employers.

**Reported Tier I
and Tier II
Compensation
Exceeds
Maximum**

If the total compensation reported by all employers for an individual exceeds the annual maximum creditable by law, the RRB will automatically adjust the record to reflect the annual maximum creditable compensation for that employee's record. See Chapter 4 of this Part for instructions on what an employee should do when this situation results in excess employment tax withholding.

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CHAPTER 3: Creditable Maximum Compensation Amounts, Continued

**No Medicare
Maximums**

Amounts earned over and above the Tier I maximum are not creditable under the RRA even though additional amounts earned are taxable for Medicare purposes. Taxable Medicare earnings beyond the creditable Tier I maximum are not reported to the RRB, except possibly on Form BA-11, Gross Earnings Report.

If an employee earned \$90,500 in 2004, the employer should report \$87,900 as creditable Tier I compensation and \$65,100 as creditable Tier II because those are the 2004 Tier maximums. The entire \$90,500 is taxable for Medicare purposes.

Part III, Chapter 4

CHAPTER 4: Taxable Compensation under the Railroad Retirement Tax Act (RRTA)

Regulations under the Railroad Retirement Tax Act (RRTA)

The retirement, survivor, and disability benefit programs under the RRA are funded by mandatory employment taxes on both employees and employers under the Railroad Retirement Tax Act (RRTA). Under the current provisions of the RRTA, Tier I and Tier II compensation is subject to tax rates and earnings bases in effect when payment is made. Tax rates can be found on the RRB website at www.rrb.gov. Taxation under the RRTA is on a “paid basis” and is always in terms of the payment year.

Earned vs. Paid Compensation

When crediting compensation under the RRA, employers may choose to credit compensation either to the period in which the services were rendered, “earned basis” or to the period in which payment is made, “paid basis”.

Note: Service months are always creditable to the month when earned.

Example of Earned vs. Paid Reporting

An employee earns \$400/week and is paid biweekly. The pay period for the last two weeks of the calendar year ends December 26, 2004 and the paycheck is issued on January 7, 2005 of the new calendar year. If the employer reports compensation on a **paid basis**, the \$800 is reported for 2005 and will be counted toward that year’s maximum earnings base. If the employer reports compensation on an **earned basis**, the \$800 compensation amount earned in the final pay period of December is reported for 2004 and is counted toward 2004’s maximum earnings base. In either case, taxes from that paycheck must be withheld at the 2005 tax rates and a service month is reported for December because the employee rendered service in December.

Earned vs. Paid Reporting under the RRTA

If compensation is reported on an earned basis (consistent with service months), the tax treatment of a payment made in a different calendar year than the year it is reported, may not be consistent under the RRTA with the manner in which the payment is credited as compensation under the RRA. If on the other hand, compensation is reported when paid, it will not necessarily be linked to the service period that is reported for that compensation. See Part IV, Chapter 1 for information about an employer’s earned/paid election, and reporting RUIA compensation and employee rights to earned/paid election.

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CHAPTER 4: Taxable Compensation under the Railroad Retirement Tax Act (RRTA), Continued

**IRS
Jurisdiction**

The RRTA is administered by the Internal Revenue Service (IRS). The RRB has no authority to provide definitive answers to railroad retirement tax questions. A staff member in the Quality Reporting Service Center (QRSC) may be able to assist you with basic information about railroad retirement taxes. If not, you will be referred to a railroad retirement tax specialist at the IRS.

**Excess Tax
Withholding
from a Single
Employer**

Employees who have paid Tier I and/or Tier II employment tax in excess of the annual maximum from a single employer must seek their refund from that employer.

**Excess Tax
Withholding in
Multiple
Employer
Situations**

Employees who have paid employment tax for Tier I, or Tier II, in excess of the annual maximum taxable amounts because they had two or more employers in a calendar year, and the sum of their earnings exceeded the maximum creditable amount, should claim an income tax credit for excess Tier I taxes withheld on their annual tax return with the IRS. Complete Form 843, Claim for Refund and Request for Abatement to request a refund of excess Tier II taxes withheld.

Instructions on how to compute the credit amounts are in IRS Publication 17, Your Federal Income Tax. QRSC has developed a worksheet to help employees determine their tax credit. The worksheet is specific for each year's tax return. To request a worksheet for a specific tax year, contact a compensation specialist in QRSC at (312) 751-4992 or send an e-mail to qrsc@rrb.gov.

There is no provision for a credit or refund of Tier tax to the employers in this situation.

Part III, Chapter 5

CHAPTER 5: Taxation of Compensation under the Railroad Unemployment Insurance Act

RUIA Tax Withholding Introduction

Unlike compensation under the RRA and the RRTA, the monthly maximum taxable and creditable compensation amount under the RUIA for an employee may be allocated among multiple concurrent employers.

RUIA Tax Withholding from Multiple Employers

If an employee works only for a system unit in a month, earnings are creditable and taxable under the RUIA up to the monthly maximum. If the employee also worked for another covered employer in the same month, the employee's combined earnings are creditable up to the RUIA monthly maximum.

If the combined earnings exceed the RUIA monthly maximum, the creditable RUIA compensation may be allocated or prorated between the two employers. The method of prorating is not set by the Railroad Retirement Board, but by agreement between the two employers. Any method that yields the correct total RUIA compensation and produces payment of the RUIA contribution liability is acceptable to the RRB.

Part IV, Chapter 2 and the Form OE-1 instructions includes more detailed information about alternative ways, including examples, to apportion RUIA earnings between multiple employers.

Labor Organizations and RUIA Reports/Tax

If a labor organization does not report or tax RUIA compensation because of primary carrier earnings, proper documentation must exist in the system subordinate unit's records to substantiate non-reporting of RUIA earnings. Because the RUIA maximum earnings are monthly, substantiation must exist for each month of non-reporting and the corresponding non-payment of RUIA contributions is assumed. Substantiation is needed to prevent the underpayment of RUIA tax and possible resultant penalties and interest.
